

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2003-0081-MSW-E TCEQ ID: RN102805652 CASE NO.: 18793
RESPONDENT NAME: DAVID HUGHITT DBA HUGHITT TIRE DISPOSAL

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: west side of County Road 213, approx. ½ mile south of FM 219, Hico, Hamilton County</p> <p>TYPE OF OPERATION: scrap tire transportation operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Mike Meyer, Waste Enforcement Section, MC 128, (512) 239- 4492 TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001 Respondent: Mr. David Hughitt, Hughitt Tire Disposal, 411 South Taylor, Hamilton, Texas, 76531 Respondent's Attorney: Mr. Judson K. Woodley, Woodley & Dudley, P.O. Box 99, Comanche, Texas 76442</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: September 4, 2002; November 13, 2002</p> <p>Date of NOE Relating to this Case: December 13, 2002</p> <p>Background Facts: The EDPRP was filed on February 25, 2005. The Respondent filed an answer on March 17, 2005. The case was referred to SOAH on April 21, 2005. A signed agreed order and initial penalty payment were received on July 25, 2008.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>MSW:</p> <ol style="list-style-type: none"> Failed to obtain a scrap tire storage registration prior to storing more than 500 used and/or scrap tires at the Facility [TEX. ADMIN CODE §§ 328.60(a), 328.63(c), and 328.59(a) and TEX. HEALTH & SAFETY CODE § 361.112(a)]. Failed to identify the vehicle used to transport used and/or scrap tires. Specifically, the vehicle was not identified with the name and place of business of the transporter and the Commission registration number [30 TEX. ADMIN CODE § 328.54(d)]. Failed to retain all work orders and invoices showing the collection and disposition of all used and scrap tires and pieces for a three year period [30 TEX. ADMIN CODE § 328.57(d)]. Failed to submit to the Executive Director an annual report from January 1, 2001, through December 31, 2001, indicating the number and type of used or scrap tires collected listed by generator name, address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility [30 TEX. ADMIN CODE § 328.57(e)]. Failed to complete all required information on the tire manifests. Specifically, transporter's driver's license number, state of issue and delivery location(s) of the tires were not provided [TEX. ADMIN CODE § 328.58(b)]. 	<p>Total Assessed: \$6,930</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$210/\$6,720</p> <p>The Respondent has paid \$210 of the administrative penalty. The remaining amount of \$6,720 of the administrative penalty shall be payable in 35 monthly payments of \$192 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements: The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, cease to cause, suffer, allow, or permit any additional municipal solid waste, specifically used/scrap tires and tire pieces, to be stored, processed, removed or disposed of at the Facility until such time as a registration or other authorization is obtained. Within 15 days, identify all vehicles used to transport used and/or scrap tires. Within 30 days, submit to the Executive Director an annual report from January 1, 2001, through December 31, 2001, indicating the number and type of used or scrap tires collected listed by generator's name, address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility. Within 30 days, properly dispose of all used or scrap tires which have been allowed to accumulate at the Facility, so as to limit on ground storage of used or scrap tires 500 or less and/or 2000 used or scrap tires in enclosed and lockable containers as required for a facility which is not a registered scrap tire storage site. With 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions.



DATES

PCW 7-Apr-2008

Screening 22-Jan-2003

Priority Due 22-May-2003

EPA Due

RESPONDENT INFORMATION

Respondent David Hughitt dba Hughitt Tire Disposal

Respondent/Site ID No(s) Tire Transporter Registration No. 6200066

Facility/Site Region 9 - Waco

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No(s) 18793

Docket No. 2003-0081-MSW-E

No. Violations 5

Case Priority 3

Order Type 1660 without deferral

Enf. Coordinator Michael Meyer

EC's Unit/Region Enforcement Team 3

Media Program(s) Waste Tires

Admin. Penalty \$ Limit

Minimum \$0

Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$6,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

5% Enhancement

Subtotals 2, 3 & 7 \$330

Notes

Respondent received one Notice of Violation for the same or similar type violations on September 5, 2002.

Culpability

0% Enhancement

Subtotal 4 \$0

No

Select Yes/No

Notes

The respondent does not meet culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Extraordinary
Ordinary

Before NOV

NOV to EDPRP/Settlement Offer

None of the above

X

(mark with small x)

Notes

The respondent is not yet in compliance.

Economic Benefit

0% Enhancement*

Subtotal 6 \$0

\$1,131

Total EB Amounts

*Capped at the Total EB \$ Amount

\$13,950

Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7

Final Subtotal \$6,930

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes

Final Penalty Amount \$6,930

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$6,930

DEFERRAL

Deferral 0% Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

\$6,930

Screening Date 22-Jan-2003

Docket Number 2003-0081-MSW-E

PCW

Respondent David Hughitt dba Hughitt Tire Disposal

Policy Revision 2 (09/02)

Case ID No. 18793

PCW Revision 11/15/02

Respondent/Site ID No. Tire Transporter Registration No. 6200066

Media [Statute] Waste Tires

Enf. Coordinator Michael Meyer

Site Address Rural Route 3, Box 134 (CR213) Hico, Texas

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which no violations were disclosed)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance
History
Notes

Respondent received one Notice of Violation for the same or similar type violations on September 5, 2002.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 5%

Screening Date 22-Jan-03

Docket Number 2003-0081-MSW-E

PCW

Respondent David Hughitt dba Hughitt Tire Disposal

Policy Revision 2 (09/02)

Case ID No. 18793

PCW Revision 11/15/02

Respondent/Site ID No. Tire Transporter Registration No. 6200066

Media [Statute] Waste Tires

Enf. Coordinator Michael Meyer

Violation Number

1

Primary Rule Cite

30 Tex. Admin. Code § 328.54(d)

Secondary Cite(s)

Violation Description

Respondent failed to identify the vehicle used to transport used and/or scrap tires. Specifically, the vehicle was not identified with the name and place of business of the transporter and the commission registration number.

Base Penalty

\$10,000

» Environmental, Property and Human Health Matrix

Harm

Release

Major

Moderate

Minor

OR

Actual

Potential

Percent

» Programmatic Matrix

Falsification

Major

Moderate

Minor

OR

x

Percent

10%

Matrix
Notes

100% of the requirement was not met.

Adjustment

-\$9,000

Base Penalty Subtotal

\$1,000

Violation Events

Number of Violation Events

1

mark only one; use small x

daily

monthly

quarterly

semiannual

annual

single event

x

Violation Base Penalty

\$1,000

Events
Notes

One single event is recommended based on the inspection date 11/13/02.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

\$13

Violation Final Penalty total

\$1,050

This Violation Final Assessed Penalty (adjusted for limits)

\$1,050

Economic Benefit Worksheet

Respondent David Hughitt dba Hughitt Tire Disposal

ID Number(s) 18793

Media [Statute] Waste Tires

Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$150	13-Nov-2002	1-Feb-2004	1.2	\$1	\$12	\$13
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to purchase materials and labor to have the vehicle painted with required identification.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$150

TOTAL \$13

Screening Date 22-Jan-03

Docket Number 2003-0081-MSW-E

PCW

Respondent David Hughitt dba Hughitt Tire Disposal

Policy Revision 2 (09/02)

Case ID No. 18793

PCW Revision 11/15/02

Respondent/Site ID No. Tire Transporter Registration No. 6200066

Media [Statute] Waste Tires

Enf. Coordinator Michael Meyer

Violation Number 2

Primary Rule Cite 30 Tex. Admin. Code § 328.57(d)

Secondary Cite(s)

Violation Description

Respondent failed to retain all work orders, and invoices showing the collections and disposition of all used or scrap tires and pieces for a three year period.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes Only the manifests were available for review; therefore, 66% of the requirement was not met.

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Events Notes

One single event is recommended based on date of inspection (11/13/02).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$220

Violation Final Penalty total \$525

This Violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent David Hughitt dba Hughitt Tire Disposal

ID Number(s) 18793

Media [Statute] Waste Tires

Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$200	1-Nov-2001	1-Oct-2003	2.0	\$20	\$200	\$220

Notes for AVOIDED costs

Estimated cost to establish and maintain a records system and train personnel.

Approx Cost of Compliance \$200

TOTAL \$220

Screening Date 22-Jan-03

Docket Number 2003-0081-MSW-E

PCW

Respondent David Hughitt dba Hughitt Tire Disposal

Policy Revision 2 (09/02)

Case ID No. 18793

PCW Revision 11/15/02

Respondent/Site ID No. Tire Transporter Registration No. 6200066

Media [Statute] Waste Tires

Enf. Coordinator Michael Meyer

Violation Number 3

Primary Rule Cite 30 Tex. Admin. Code § 328.57(e)

Secondary Cite(s)

Violation Description

Respondent failed to submit to the executive Director an annual report from 1/01/01 through 12/31/01, indicating the number and type of used or scrap tires collected by generator's name, address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
OR	x		

Percent 10%

Matrix Notes

100% of the requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

Events Notes

One annual event is recommended for the year 2001.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$1,050

This Violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent David Hughitt dba Hughitt Tire Disposal

ID Number(s) 18793

Media [Statute] Waste Tires

Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

This cost has been included with violation number 2.

Approx Cost of Compliance \$0

TOTAL \$0

Screening Date 22-Jan-03

Docket Number 2003-0081-MSW-E

PCW

Respondent David Hughitt dba Hughitt Tire Disposal

Policy Revision 2 (09/02)

Case ID No. 18793

PCW Revision 11/15/02

Respondent/Site ID No. Tire Transporter Registration No. 6200066

Media [Statute] Waste Tires

Enf. Coordinator Michael Meyer

Violation Number 4

Primary Rule Cite 30 Tex. Admin. Code § 328.58(b)

Secondary Cite(s)

Violation Description

The respondent failed to complete all the required information on the tire manifests; specifically, transporter's driver's license number, state of issue and delivery location(s) of the tires.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes One of the five items required on the manifest was not completed, therefore 20% of the requirement was not met.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 21

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,100

Events Notes Twenty-one single events are recommended based on the documented manifested shipments.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$2,205

This Violation Final Assessed Penalty (adjusted for limits) \$2,205

Economic Benefit Worksheet

Respondent David Hughitt dba Hughitt Tire Disposal

ID Number(s) 18793

Media [Statute] Waste Tires

Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

This cost has been included with violation number 3.

Approx Cost of Compliance \$0

TOTAL \$0

Screening Date 22-Jan-03

Docket Number 2003-0081-MSW-E

PCW

Respondent David Hughitt dba Hughitt Tire Disposal

Policy Revision 2 (09/02)

Case ID No. 18793

PCW Revision 11/15/02

Respondent/Site ID No. Tire Transporter Registration No. 6200066

Media [Statute] Waste Tires

Enf. Coordinator Michael Meyer

Violation Number 5

Primary Rule Cite 30 Tex. Admin. Code §§ 328.60(a), 328.63(c), and 328.59(a)

Secondary Cite(s) Tex. Health and Safety Code § 361.112(a)

Violation Description

Respondent failed to obtain a scrap tire storage registration prior to storing more than 500 used and/or scrap tires at the facility.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Events Notes

Two quarterly events are recommended from the inspection date (9/4/02) to the date of the screening (January 22, 2003).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$898

Violation Final Penalty total \$2,100

This Violation Final Assessed Penalty (adjusted for limits) \$2,100

Economic Benefit Worksheet

Respondent David Hughitt dba Hughitt Tire Disposal
 ID Number(s) 18793
 Media [Statute] Waste Tires
 Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$13,600	4-Sep-2002	30-Dec-2003	1.3	\$898	n/a	\$898
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of 10,000 tires at \$80 a short ton (short ton = 2000 lbs), average tire weight 34 lbs.
 Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$13,600

TOTAL \$898

COMPLIANCE HISTORY

Customer/Respondent/Owner-Operator: DAVID HUGHITT Site Classification: Average

Regulated Entity/ID Nos.: HUGHITT TIRE DISPOSAL, Tire Transporter Site Rating: 3.25
Registration No. 6200066

Location (including city or nearest city, and county): WEST SIDE OF COUNTY ROAD 213, Repeat Violator: (y/n) N
APPROX. 1/2 MILE SOUTH OF FM 219,
HICO, HAMILTON COUNTY, TX

TCEQ Region No. 9

Date Compliance History Prepared: February 4, 2003

Agency Decision Requiring Compliance History (mark one):

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit |
| <input checked="" type="checkbox"/> | enforcement |
| <input type="checkbox"/> | the use of announced investigations (Field Ops) |
| <input type="checkbox"/> | participation in innovative programs |

Compliance Period: February 4, 1998 Thru February 4, 2003

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Steven Lopez Phone: 512-239-1896

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? ☐ Yes ☐ No ☒ Unk
2. Has there been a (known) change in ownership of the site during the compliance period? ☐ Yes ☐ No ☒ Unk
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (multimedia) for the Site during the portion of the five-year compliance history the site was owned by the person who is the subject of this compliance history:

- A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government
1. Effective Date: N/A Type of Action:
Violation Citation 1: Classification:
Violation Description:
- B. Any criminal convictions of the state of Texas and the federal government.
- Conviction Date: N/A
- Count 1:
Count 2:
- C. Chronic excessive emissions events: None
- D. The dates of investigations.

1. 9-4-02
2. 11-12-02
3. 11-13-02

E. Written notices of violation (NOV)

1. Date: 9-5-2002 Self-reported? ☐ Yes ☒ No
- Violation Citation 1: 30 TAC § 328.57(c)(3) Classification: MODERATE
- Violation Description: Failure to ensure that used tires or tire pieces are transported to an authorized used and or scrap tire facility.
- Violation Citation 2: 30 TAC § 328.60(a) Classification: MAJOR
- Violation Description: Failure to obtain a scrape tire storage site registration for the facility.
- Violation Citation 3: 30 TAC § 328.63(c) Classification: MAJOR
- Violation Description: Failure to obtain a scrap tire processor registration before starting operations.

F. Environmental audits.

1. Notice of Intent Date: N/A
- Disclosure Date:
- Violation Citation 1: Classification:
- Violation Description:

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

State: N/A

Site Name: N/A

Location: N/A

Type of Action: N/A

Effective Date: N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DAVID HUGHITT DBA HUGHITT
TIRE DISPOSAL,
RN102805652

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2003-0081-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding David Hughitt dba Hughitt Tire Disposal ("Mr. Hughitt") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Hughitt represented by Judson K. Woodley of the law firm of Woodley & Dudley, appear before the Commission and together stipulate that:

1. Mr. Hughitt owned and operated a scrap tire transportation operation located at west side of County Road 213, approximately one half mile south of Farm-to-Market ("FM") Road 219, Hico, Hamilton County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Mr. Hughitt agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Hughitt is subject to the Commission's jurisdiction.
4. Mr. Hughitt received notice of the violations alleged in Section II ("Allegations") on or about December 18, 2002.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Hughitt of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of six thousand nine hundred thirty dollars (\$6,930.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Hughitt has paid two hundred ten dollars (\$210.00) of the administrative penalty. The remaining amount of six thousand seven hundred twenty dollars (\$6,720.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred ninety-two dollars (\$192.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Hughitt fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Hughitt to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Hughitt to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Hughitt have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Hughitt provided all invoices and manifests for 2003 and 2004 on January 15, 2008, in response to this enforcement action.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Hughitt has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Hughitt is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 328.60(a), 328.63(c), and 328.59(a); and TEX. HEALTH & SAFETY CODE § 361.112(a) by failing to obtain a scrap tire storage registration prior to storing more than 500 used and/or scrap tires at the Facility as documented on September 4, 2002, and November 13, 2002.
2. 30 TEX. ADMIN. CODE § 328.54(d) by failing to identify the vehicle used to transport used and/or scrap tires. Specifically, the vehicle was not identified with the name and place of business of the transporter and the commission registration number as documented on November 13, 2002.
3. 30 TEX. ADMIN. CODE § 328.57(d) by failing to retain all work orders and invoices showing the collection and disposition of all used and scrap tires and pieces for a three year period as documented on November 13, 2002.
4. 30 TEX. ADMIN. CODE § 328.57(e) by failing to submit to the Executive Director an annual report from January 1, 2001, through December 31, 2001, indicating the number and type of used or scrap tires collected listed by generator name, address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility as documented on November 13, 2002.
5. 30 TEX. ADMIN. CODE § 328.58(b) by failing to complete all required information on the tire manifests. Specifically, transporter's driver's license number, state of issue, and delivery location(s) of the tires were not provided as documented on November 13, 2002.

III. DENIALS

Mr. Hughitt generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Hughitt pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Hughitt's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: David Hughitt dba Hughitt Tire Disposal, Docket No. 2003-0081-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Hughitt shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Mr. Hughitt shall cease to cause, suffer, allow, or permit any additional municipal solid waste, specifically used/scrap tires and tire pieces, to be stored, processed, removed or disposed of at the Facility, in violation of 30 TEX. ADMIN. CODE § 330.15 (relating to General Prohibitions) until such time as a registration or other authorization is obtained in accordance with 30 TEX. ADMIN. CODE §§ 328.60 (relating to Scrap Tire Storage Site Registration) and 328.63 (relating to Scrap Tire Facility Requirements);
 - b. Within 15 days after the effective date of this Agreed Order, Mr. Hughitt shall identify all vehicles used to transport used and/or scrap tires, in accordance with 30 TEX. ADMIN. CODE § 328.54 (relating to General Requirements);
 - c. Within 30 days after the effective date of this Agreed Order, Mr. Hughitt shall submit to the Executive Director an annual report from January 1, 2001, through December 31, 2001, indicating the number and type of used or scrap tires collected listed by generator's name, address, the disposition of the tires, and the number of whole used or scrap tires delivered to each facility, in accordance with 30 TEX. ADMIN. CODE § 328.57 (relating to Transporter Requirements);
 - d. Within 30 days after the effective date of this Agreed Order, Mr. Hughitt shall properly dispose of all used or scrap tires which have been allowed to accumulate at the Facility, so as to limit on ground storage of used or scrap tires 500 or less and/or 2000 used or scrap tires in enclosed and lockable containers as required for a facility which is not a registered scrap tire storage site as required in accordance with 30 TEX. ADMIN. CODE § 328.60(a) (relating to Scrap Tire Storage Site Registration); and
 - e. Within 45 days after the effective date of this Agreed Order, Mr. Hughitt shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision nos. 2.a. through 2.d.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Frank Burleson, Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Hughitt. Mr. Hughitt is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Hughitt fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Hughitt's failure to comply is not a violation of this Agreed Order. Mr. Hughitt shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hughitt shall notify the Executive Director within seven days after Mr. Hughitt becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

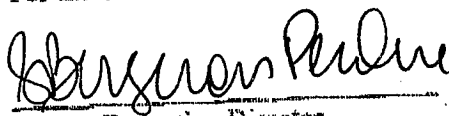
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Hughitt shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hughitt receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Hughitt in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Hughitt, or three days after the date on which the Commission mails notice of the Order to Mr. Hughitt, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

David Hughitt dba Hughitt Tire Disposal
DOCKET NO. 2003-0081-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/7/08

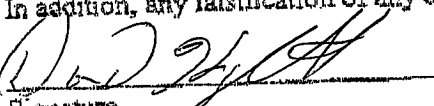
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

7-25-08
Date

DAVID Hughitt
Name (Printed or typed)
Authorized representative of
David Hughitt dba Hughitt Tire Disposal

OWNER
Title